

# COMMONWEALTH of VIRGINIA

Department of  
Mental Health, Mental Retardation and Substance Abuse Services

RICHARD E. KELLOGG  
COMMISSIONER

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## MEMORANDUM

**TO:** Juvenile and Domestic Relations District Court Judges  
Juvenile and Domestic Relations District Court Clerks

**FROM:** Richard E. Kellogg

**DATE:** July 24, 2000

**SUBJECT:** **Amended Guidelines Regarding the Evaluation of Juvenile Competency to Stand Trial and the Provision of Restoration Services for Juveniles Pursuant to *The Code of Virginia* ' ' 16.1-356 through 16.1-361**

The purpose of this memorandum is to advise you of amendments to the *Code of Virginia*, ' ' 16.1-356 A and 16.1-358, and to provide you with amended guidelines for qualifications of evaluators of juvenile competency. These amendments and the guidelines were effective July 1, 2000. These recently amended Code sections are part of the statutory framework for raising the issue of competency to stand trial when a juvenile is charged with a delinquency offense and is before a juvenile and domestic relations district court.

The amendment to ' 16.1-356 A provides that *licensed professional counselors*, in addition to licensed clinical social workers, clinical psychologists and psychiatrists may perform competency evaluations of juveniles. The amendment to ' 16.1-358 provides that

*If the court finds that the juvenile is incompetent and likely to remain so for the foreseeable future, it shall order that the juvenile (i) be committed pursuant to Article 16 ( ' 16.1-355 et seq.) of this chapter or, if the juvenile has reached the age of eighteen years at the time of the competency determination, pursuant to ' ' 37.1-67.01 through 37.1-70, . . .@*

The legislation (Attachment A) requires the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS) to

1. Approve the training and qualifications for individuals authorized to

conduct juvenile competency evaluations and provide all juvenile courts with a list of guidelines for the courts to use in the determination of qualifying individuals as experts in matters relating to juvenile competency and restoration. Please note that this information is provided in Attachment B, which was revised July 1, 2000.

2. Approve the training and qualifications for individuals authorized to provide juvenile restoration services. Please note that this information is provided in Attachment C, which was revised July 1, 2000.
3. Upon receipt of a court order arrange for the provision of restoration services in a manner consistent with the order.

For the purpose of implementing these new provisions, restoration services are defined as education and training services designed to ensure that the juvenile:

1. Adequately understands the proceedings against him, and
2. Is able to assist his attorney in his own defense. (' 16.1 - 356A)

The General Assembly, through the budget bill, directed DMHMRSAS to develop and disseminate requests for proposals to solicit public or private providers to deliver restoration services. Contracts for restoration services have been awarded to the Institute for Family Centered Services and to NetCare of Virginia, Inc.

The Supreme Court of Virginia has developed model court orders for your use, copies are attached for your review.

**Please fax orders for restoration services directly to**

**Jeanette DuVal, LCSW  
Director, Juvenile Competency Services  
DMHMRSAS  
P.O. Box 1797  
Richmond, VA 23218**

**FAX: 804/786-9621**

**PHONE: 804/786-1725**

Upon receipt of your court order, Ms. DuVal will authorize the Institute for Family Centered Services or NetCare of Virginia, Inc. to provide restoration services to the juvenile.

For additional information or consultation, please contact Ms. Jeanette DuVal or her designee at 804/786-1725.

REK/JD/jya

**Attachments:**

- A. Code of Virginia Sections 16.1-356 through 16.1-361
- B. Qualifications for Evaluators of Juvenile Competency
- C. Qualifications and Supervision Requirements for Providers of Restoration Services for Juveniles
4. Model court order for evaluation to determine competency to stand trial -- juvenile
5. Model court order for provision of restoration services to incompetent juvenile

xc: James Evans, M.D., Director, Office of Health and Quality Care, DMHMRSAS  
James Morris, Ph.D., Director of Forensic Facility Services, DMHMRSAS  
Jeanette DuVal, LCSW, Director, Juvenile Competency Services, DMHMRSAS  
Robert Baldwin, Executive Secretary, Supreme Court of Virginia  
Jane D. Hickey, J.D., Senior Assistant Attorney General and Chief  
Garland Bigley, J.D., Senior Assistant Attorney General  
Julie A. Stanley, J.D., Assistant Commissioner, Administrative and Regulatory

**Compliance**

Cathleen Newbanks, Associate Commissioner, Community and Facility Services  
Paul R. Gilding, Director Office of Community Contracting Administration  
Commonwealth Attorneys  
The Virginia Bar Association  
Public Defenders  
Director, Department of Juvenile Justice Services  
Directors, Juvenile Detention Centers  
Directors, Juvenile and Domestic Relations Court Services Units  
Directors, DMHMRSAS Mental Health Facilities  
DMHMRSAS Forensic Coordinators  
Child and Adolescent Coordinators, Community Services Boards  
Executive Directors, Community Services Boards

## **ATTACHMENT B**

### **QUALIFICATIONS FOR EVALUATORS OF JUVENILE COMPETENCY**

The following training and qualifications are approved by the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services as adequate training and qualifications for individuals who are authorized to conduct juvenile competency evaluations:

#### **I. Current Virginia licensure as a (Code of Virginia ' 16.1-356A)**

- G** Clinical Social Worker,
- G** Clinical Psychologist,
- G** Professional Counselor; or
- G** Psychiatrist

**AND**

#### **II. Training and formal education**

- G** Successful completion of DMHMRSAS-sponsored training provided through contract by the UVA Institute of Law, Psychiatry and Public Policy, or other DMHMRSAS-approved training provider:
  - (i) Juvenile Basic Forensic Evaluation Training **or**
  - (ii) Adult Basic Forensic Evaluation Training and Juvenile Evaluation Update Training

**OR**

- G** Equivalent training which includes, at a minimum, each of the following:
  - (i) Training in psycho-legal assessment;
  - (ii) Legal standard of competency to stand trial;
  - (iii) Child and adolescent psychological development;
  - (iv) Child and adolescent psychopathology;
  - (v) Risk assessment related to least restrictive setting;
  - (vi) Secure vs. non-secure facilities as defined by the Code of Virginia ' 16.1-288; and continuum of available community resources for juveniles;

**AND**

#### **III. Experience**

- G** A minimum of two years of graduate or post graduate experience which included the provision of mental health evaluation or treatment services to children or adolescents under the supervision of a licensed mental

health services provider.

## **ATTACHMENT C**

### **QUALIFICATIONS AND SUPERVISION REQUIREMENTS FOR PROVIDERS OF RESTORATION SERVICES FOR JUVENILES**

The following training and qualifications are approved by the Commissioner of Mental Health, Mental Retardation and Substance Abuse Services as adequate training and qualifications for individuals who will provide restoration services to juveniles pursuant to ' 16.1-357 of the Code of Virginia.

Individuals qualified under these guidelines may provide restoration services only under the supervision of a licensed psychiatrist, psychologist, social worker, or professional counselor. The supervising licensed psychiatrist, psychologist, social worker, or professional counselor must be qualified to conduct evaluations for juvenile competency to stand trial pursuant to ' 16.1-356, and must have successfully completed the two day training in Juvenile Restoration provided by a contractual provider of the Department.

#### **Education:**

- G** Bachelors degree in
  1. Education; or
  2. Nursing; or
  3. Human services-related field: Social Work, Psychology, Human Services, Rehabilitation Counseling, Child & Family Studies, Criminal Justice, Sociology, Occupational Therapy, Physical Therapy or other degree of similar type and character which would commonly be considered a degree in a human services-related field.@

#### **Training:**

- G** Two years post-baccalaureate experience providing mental health-related services to children and/or adolescents, and
- G** Experience has been under the supervision of a person licensed to provide mental health and evaluation services to children or adolescents.

